

**MINUTES OF THE
CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
July 1, 2005
9:00AM**

CALL TO ORDER

Mr. Faux called the meeting to order at 9:45.

Commission Members:

Present: Mr. Faux, Ms. Lemmie, Mr. Paddock, and Mr. Tarbell

Members Absent: Ms. McCray, Mr. Mooney, and Ms. Hankner

Community Development and Planning Staff:

Margaret Wuerstle, Renee Christon, Adrienne Cowden, Steve Briggs, Katherine Keough-Jurs

Law Department:

Dotty Carmen, Julia Carney

APPROVAL OF MINUTES

Submission of the minutes from June 17, 2005 Planning Commission meeting for approval.

Motion: Ms. Lemmie motioned approval of minutes.
Second: Mr. Paddock
Vote: All ayes (4-0), motion carried

CONSENT ITEMS

- ITEM #1** A report and recommendation on the lease of space in the 19 West Elder Street building to the Corporation for Findlay Market.
- ITEM #2** A report and recommendation on an ordinance authorizing the sale of a portion of Braddock Street between Dennison Street and Cathcart Street, which real property is no longer needed for any municipal purpose.
- ITEM #3** A report and recommendation on an emergency ordinance authorizing least of Otto Armleder Memorial Recreation Complex.

Motion: Mr. Tarbell motioned approval of the Consent Items.
Second: Mr. Paddock
Vote: All ayes (4-0), motion carried

DISCUSSION ITEMS

- ITEM #4** A report and recommendation on a proposed zone change from RM-2.0 Multi-Family Residential District to OL Office Limited District at 3804 Edwards Road in Oakley.

Katherine Keough-Jurs, Senior City Planner, presented this item.

Purpose:

To return to a zoning classification that allows uses permitted or conditional at this address prior to the February 2004 Citywide rezoning; to allow an office use at this address.

BACKGROUND:

Dr. David Dahlman, owner of Hyde Park Holistic Center, first secured the property at 3804 Edwards Road in Oakley in 2002. As one of several property owners involved in an eminent domain dispute with the City of Norwood, he purchased the property with the intention of eventually moving his practice to that location.

At the time of purchase, he confirmed with the City of Cincinnati Department of Buildings and Inspections that his property was zoned R-4, which allowed office uses as a conditional use. In February of 2004, the City of Cincinnati adopted a new zoning code and re-zoned the property to RM-2.0 Multi-Family Residential. In this new zoning classification, office uses are not permitted and are not conditional uses.

Dr. Dahlman, originally believing that the re-zoning was merely an oversight, petitioned the City Planning Commission to rezone his property outside of the traditional zoning process. As the deadline for complimentary zone changes had passed, the City Planning Commission denied that request and Dr. Dahlman filed an official petition for a change of zoning.

EXISTING CONDITIONS:

The property in question is located at the intersection of Edmondson Road and Edwards Road, at the terminus of Edmondson Road. The property is adjacent to an OL Office Limited zone. Three other parcels with frontage on Edwards Road are also zoned RM-2.0. All other properties along Edwards Road between Madison Road and Markbreit Avenue are zoned for office or commercial uses. To the west of the property and across Edwards Road, is the site of Rookwood Commons and the proposed new Rookwood Exchange development, both in the City of Norwood. The properties immediately to the east are single and multi-family residential uses.

PLANS:

There are currently no Plans for the Oakley community that encompass or make reference to this property.

ANALYSIS OF THE PROPOSED CHANGE:

When mapping the new zoning code, staff based designations on the existing land uses at that time. At this property, RM-2.0 was the designation that best fit the existing land use, which was that of a residential dwelling unit. The RM-2.0 zoning is compatible with the multi-family properties to the north of 3804 Edwards Road. Therefore, the re-zoning of this property was likely not an error, as it was given the same consideration as all other properties in the City.

However, considerable land-use changes have been taking place in this area over the past decade. What was once primarily a residential area, with some retail and manufacturing uses, has become a flourishing retail and office district. Even since the adoption of the new code, there have been major changes such as the recent demolition of an approximately 11 acre residential neighborhood for the \$125 million Rookwood Exchange development that proposes a mix of retail, residential and office space in Norwood. The Edwards Road corridor is quickly becoming more commercial and office oriented and less residentially oriented. As 3804 Edwards Road is directly across from the Rookwood developments, is adjacent to other office uses, and fronts Edwards Road, a change of zoning on this property would be appropriate.

Because of the rapid local redevelopment, it is imperative for the Oakley neighborhood to be further protected and more adequately buffered from these intense uses. One concern may be that by rezoning this property, the neighborhood could be opened to further encroachment of commercial uses into the residential areas of the Oakley community.

However, an office use on this site may act as a higher-quality buffer to the residential uses than its current use as a rental property, which has received numerous complaints from surrounding property owners regarding the tenants and their upkeep of the property. With the nearby development and increase in traffic along Edwards Road, it is unlikely that the property could again be used as a single-family or multi-family owner-occupied building, which is the most desirable use. On this site, a small office use may actually provide a quieter, less obtrusive neighbor than a rental residential use.

PUBLIC COMMENT:

A public Staff Conference was held on May 31, 2005. On June 15, 2005, the petitioner met with the Zoning Committee of the Oakley Community Council, where the Committee voted in support of the zone change.

CONCLUSIONS:

1. The re-zoning of 3804 Edwards Road was not done in error, as the re-classification was based on the existing use at the time of the re-mapping.
2. The OL Office Limited zoning would be an appropriate designation for this property given the recent changes in the surrounding land uses.
3. An office use may provide a quieter, more stable buffer for the surrounding residential uses.

Motion: Ms. Lemmie motioned approval of staff recommendation.

Second: Mr. Tarbell

Vote: All ayes (4-0), motion carried

ITEM #5 A report and recommendation on an ordinance for the Sale of Gerard Street between Stetson and Rochelle.

Steve Briggs, Senior City Planner, presented this item.

City Council, at its session on Wednesday, May 11, 2005, referred this item to the City Planning Commission for review and report.

BACKGROUND:

The City Planning Commission (CPC) at its June 3, 2005 meeting discussed the sale of a portion of Gerard Street between Stetson and Rochelle Streets. The Commission had concerns regarding objections to the sale from Teresa A. Smith, the only other abutting owner to Gerard Street. The CPC tabled the issue and requested additional information regarding the project and a desire for the Economic Development Department to continue negotiations with the abutting property owner to resolve the issue. As a result of this objection, notice of this ordinance must be published in a newspaper of general circulation for six consecutive weeks prior to any final City Council action. The ad was published in the newspaper on Monday June 13, 2005.

On June 17, 2005, an information report was presented to the CPC with additional background information regarding the project. In addition, the Development Manager of the Village at Stetson Square, Great Traditions, made a full presentation to the CPC regarding the entire project. The CPC requested that this sale of Gerard come back to the Commission at the July 1, 2005 meeting.

A legal opinion was presented by the City Law Department regarding the issue of whether the adjoining property owner may have a claim for adverse possession of this portion of Gerard Street. It was determined that the adjoining property owner does not have a valid claim for adverse possession of Gerard Street. Negotiations between the developers, the City's Economic Development Department and the abutting property have been ongoing, although there is no resolution at this time.

This ordinance provides for the conveyance of the portion of Gerard Street between Stetson and Rochelle Streets for a residential mixed development. The market value of the property as appraised is \$94,500, which the Corryville CDC (CCDC) has deposited with the City Treasurer.

PLANS:

There are currently no Plans for the Corryville community that encompass or make reference to this property.

DISCUSSION

Mr. Faux pointed out that the Commission suggested that the owner of the abutting property and the developers meet to negotiate issues surrounding her property.

Chad Munitz, Economic Director informed the Commission that the abutting owner Mrs. Smith at 214 E. Rochelle Street and Great Traditions, the developers, had met but had not come to any agreement regarding the sale of her property.

Ms. Smith and Tom Bridentstein, her attorney, were present to address the Commission concerning her property. She passed out a packet of information to address her issues concerning Gerard Street. She first addressed the June 3, 2005 CPC minutes. She stated that the minutes were incorrect regarding her comments and views. In the minutes, it said that building a garage next to her property would be an inconvenience. She felt that the statement had given the impression she was against the proposed project. What she said was that parking in her neighborhood would be a major problem if she could not have access to the driveway and parking area that she has used for the last 12 years. She told the Commission that the location of the driveway entrance in the 2005 plans is different from the 2004 garage plans and would prohibit her from parking in the area she has been accustomed to. In addition, she stated that the City of Cincinnati had never offered to purchase her property and she had only two offers from the developer, Great Traditions.

Ms. Smith had made it very clear that she has tried everything possible to come to terms regarding her property. She stated that she had contacted all the resources she thought could help her including the Mayors office and the City Solicitor's office. She had spoken with the president of CCDC in May who had assured her and her husband that they were committed to working with her and finding a resolution.

She was very frustrated because she had lived on her property for years, put a lot of money in remodeling the inside, and plans to fix the outside. Additionally, her job is within walking distance. She and her husband attend school at UC. Also, the daycare and schools in this area worked well for her. She is a part of this community and wants to stay. She felt that she had made her case but she has not been treated fairly by the City Council, CCDC, or by her community council. She pointed out it was now left up to the Commission to determine if she would be treated fairly.

Mr. Tarbell asked if she had been offered spaces in the new garage. She had been offered parking in the garage but she declined because she felt the parking space was too far from her property. She explained that it was at least 200 ft away. She is often on-call at her job and there would be an issue of safety and inconvenience when she was called work at night.

The value of Ms. Smith's property is \$42,900 and she was offered a price of \$250,000 by CCDC. Mr. Tom Bridenstein pointed out to Mr. Tarbell that one property owner was offered \$500,000 and the other \$350,000. Ms. Lemmie asked how the other properties compared to Ms. Smith property. The property that was offered \$350,000.00 was assessed at \$77,000. The assess value for the house that was offered \$500,000.00 was \$40,000.

Mr. Doug Harold, of Great Traditions and Roger Wells, of the Corryville Development Corp. stated that they had met with Ms. Smith's attorney. He stated that they do not need her property for the project. The properties that they did purchase were located in the footprint of their project and they had to buy them. Ms. Smith's home is not in that situation.

Mr. Wells stated that they have been negotiating a purchase price with Ms. Smith for at least two years. They started at \$70,000 and are up to \$250,000. She does not want to sell her property. They are willing to work with her regarding her issues. He stated that she had made it clear to them that it is a money issue and she wants \$500,000. The \$250,000.00 that has been offered to Ms. Smith has not been approved by the Board because of the fact that they do not need her property for the project. They are willing to provide her an easement for parking and landscaping on her property. They did not offer to pay for the property improvements.

Mr. Faux asked if they could shift their driveway to the west, enough to accommodate Ms. Smith.

The developer responded that the construction project would be affected in time and expense. Also the amenities that were sized to accommodate the number of tenants and if they relocated the drive, the

pool would have to be smaller. He said it would have a domino affect on changes and expenses. Mr. Herald stated that the community board would be willing to pay for her landscaping and the wall.

Mr. Paddock asked staff to provide an understanding of the zoning issue that was brought out by Ms. Smith. Mr. Briggs stated that the proposed development is located in a PD district. A portion of the street is in an RMX district. The centerline of Gerard Street is the difference between the two zoning districts. The construction of the driveway to the garage would go beyond the PD boundaries into the RMX district and a zone change would be needed. That request would have to come before the Commission in the future.

Mr. Faux commented that what really strikes him is the fact that there is a way to accommodate Ms. Smith and had it been done from the very beginning this issue would not be before the Commission. Ms. Lemmie responded by saying that they are not sure the accommodations can be made.

Ms. Smith wanted to make it known that she had did everything possible to get the issues resolved by contacting all parties involved including the CCDC president.

Mr. Tarbell stated that what needs to be understood by everyone is that the property being used by Ms. Smith for parking is City Property. Even though it has been taken care of by the abutting owner, the property belongs to someone else. He stated that Ms. Smith may not get everything she wants, but what she is getting will be legal.

- Motion:** Mr. Tarbell motioned the approval for the sale of Gerard Street conditioned on the developer (CCDC) paying for the improvements required to accommodate parking for Ms. Smith including moving the stairs, constructing a new driveway and landscaping.
- Second:** Ms. Lemmie
- Vote:** All ayes (4-0), motion carried.

OTHER BUSINESS

ITEM #6 CPC Tracking Sheet – No comments were made on this item.

BANKS PROJECT

Mr. Faux explained that at the last meeting the Banks Project was discussed by the Commission. Mr. Faux suggested that the Commission considered re-zoning the Banks Property to a PD designation. He requested that staff investigate the advantages and disadvantages of rezoning the property as a Planned Development. He felt that such a rezoning would strengthen the City's voice on the final development concept for this property.

Ms. Lemmie felt that rezoning this property to PD might also complicate the project more. She felt it was a good project and wanted to see it go forward.

Mr. Paddock commented that he understood the motion to be a request for staff to prepare a paper on the process and the advantages and disadvantages of the PD zoning. That would not obligate the Commission to take any legal actions. Mr. Faux responded that his understanding was correct.

Mr. Tarbell stated the CPC has a role to play and that we need to improve the process going forward.

Mr. Faux requested that the report be presented at the July 15, 2005 meeting of the Commission.

Ms. Lemmie stated that the report should also be shared with the City Council as an FYI.

- Motion:** Mr. Paddock made a motion to have staff prepare a paper for the Planning Commission on the legal process for rezoning the Bank Properties to a

Planned Development (PD) designation along with an analysis of the advantages and disadvantages of a PD designation on the Banks Project.

Second: Mr. Tarbell
Vote: 3 ayes
1 nay (Ms. Lemmie)
Motion carried

ADJOURN

Motion: Ms. Lemmie motioned to adjourn.
Second: Mr. Paddock
Vote: All ayes (4-0), motion carried

Margaret A. Wuerstle, AICP
Chief Planner

Caleb Faux, Chair

Date: _____

Date: _____